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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,467	12/20/2001	Michael Alan Schmidt	659/793	1568

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06/03/2005

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EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/027,467	Applicant(s) SCHMIDT ET AL.	
	Examiner Ghassem Alie	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
 4a) Of the above claim(s) 1-13 and 23-34 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 14-22 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 12/20/01 & 01/30/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of Group II (apparatus of claims 14-15 having the transfer blade as the cutting device and the tip roller for creation tension when the sheet is contacted with transfer blade) on 03/10/05 is acknowledged. The traversal is on the ground(s) that the restriction requirement is not being factually supported because it is not shown that there is a "serious burden" on the Examiner. Firstly, the search for each species is not identical. The Search for each species may overlap but they do not coincide identically throughout. In addition, as stated in the Office action mailed on 02/08/05, three species have been claimed. Nevertheless, if applicant provides a statement that the Species are obvious variant of each other (See the election requirement), the restriction requirement will be withdrawn. Burden is not the issue in the Species requirement. However, there is a burden when there are multiple searches involved in multiple inventions and the Examiner is in time constrain. Applicant's traverse is also based on the ground that the independent claim 14 is generic to the all the species. Applicant's traverse is misplaced. Clearly, different species are claimed and each species as identified by the Examiner is patentably distinct from each other. Generic claims permit rejoinder of a reasonable number of claims if one or more generic claims are found to be allowable. However, applicant's independent claim is not generic to all the species. In order to be generic a claim must comprehend within its confines the organization covered in each of the species. This is not possible here. For example, in one species the nip rollers is the only cutting device, in other the transfer blade is the only cutting device, and in another the transfer blade is the cutting device and the nip rollers are tensioning device. While the broad claim may be broad enough to

Art Unit: 3724

encompass several species it is not generic as defined by MPEP 806.04(D). Nevertheless, if an independent or superior claim that encompasses other claimed species is allowed, rejoinder will be permitted as long as there is compliance with respect to 35 U.S.C., 2nd paragraph.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 17 and 23-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group I (nip rollers as the cutting device or braking device), there being no allowable generic or linking claim. Regarding claims 23 there are two separate means for cutting the sheet. There are "means for cutting the sheet," and "means for simultaneously cutting the sheet and directing the sheet toward the processing apparatus." It should be noted that the disclosure sets forth the nip rollers and the transfer cutter as the cutting devices of the apparatus in Figs. 11-15. Therefore, since the nip rollers which function as cutting device belongs to non-elected Group I, claims 23-25 are also withdrawn from further consideration. Applicant timely traversed the restriction (election) requirement in the reply filed on 03/10/05.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-16, 20, and 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran in view of Campbell, Jr. (5,024,128), hereinafter Campbell. Regarding claim

14, Sankaran teaches a transfer blade 28 having a retracted position and an extended position, and a roll 12 wherein a sheet of material 30 passing between the retracted position and the extended position is diverted away from a processing apparatus 2, 22, 34 by the roll 12. The roll 12 diverts away the sheet 30 from the processing apparatus 2, 22, 34 which is defined by the belt wrapper 22, mandrel 2, and the belt wrapper tucking roll 34. Sankaran also teaches that the movement of the transfer blade 28 from the retracted position to the extended position directs the sheet 30 toward a processing apparatus 2, 22, 34. See Figs. 1-3 and col. 4, lines 31-67 and col. 5, lines 1-61 in Sankaran. Sankaran does not teach that the roll 12 is a pair of nip roll and the sheet of material passes between the nip rolls. However, the use of nip rolls for creating tension in the sheet of material before the sheet is cut and delivering the sheet to the delivery system is well known in the art such as taught by Campbell. Campbell teaches a pair of nip rolls 80, 81 for creating tension on the sheet 10 before the cutting action by a cutting head and delivering the web to the delivery system. See Fig. 3 and col. 3, lines 8-68 and col. 4, lines 1-32 in Campbell. It would have been obvious to a person of ordinary skill in the art to replace roll 12 of Sankaran's cutting apparatus with the pair of nip rolls as taught by Campbell in order to facilitate the cutting of the sheet of material by creating tension in the sheet of material before the cutting operation and help delivering the sheet of material to the delivery system.

Regarding claim 15, Sankaran teaches everything noted above including that the movement of the transfer blade 28 from the retracted position to the extended position breaks the sheet 30. See Fig. 1 and 2 in Sankaran.

Regarding claim 16, Sankaran as modified by Campbell teaches everything noted above including that the sheet 30 is in contact with the nip rolls 80, 81 as taught by Campbell. See Fig. 1 in Sankaran and Fig. 2 in Campbell.

Regarding claim 20, Sankaran teaches everything noted above including an idler nip roll 36 wherein the idler nip roll 36 provides tension to the sheet 30 when the sheet is in contact with the transfer blade 28. See Figs. 1 and 2 in Sankaran.

Regarding claim 22, Sankaran as modified by Campbell teaches everything noted above including that the transfer blade 28 and nip rolls 80, 81, as taught by Campbell, are automatically controlled such that the sheet 30 transfers between being directed toward the processing apparatus 2, 22, 34 and being diverted away from the processing apparatus in a continuous manner. See Figs. 1-3 and col. 4, lines 31-67 and col. 5, lines 1-61 in Sankaran and Fig. 3 in Campbell.

5. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran in view of Campbell, as applied to claim 14, and in further view of Lotto et al. (5,588,644), hereinafter Lotto. Regarding claim 17, Sankaran as modified by Campbell teaches everything noted above except the sheet of material is broken by the stress applied to the sheet by the rotation of the nip rolls at a faster speed than the speed of the sheet passing between the nip rolls. However, Lotto teaches a sheet of material 26b moves at a first speed and is broken by the stress or tension, which is created by the rotation of a pair of nip rolls 34a and 34b at a second speed greater than the first speed. See Fig. 3 and col. 5, lines 1-22 in Lotto. It would have been obvious to a person of ordinary skill in the art to provide nip rolls of Sankaran's cutting apparatus, as modified by Campbell, with the speed greater than the speed

Art Unit: 3724

of the sheet material as taught by Lotton in order to break the sheet of material by the nip rolls without using the transfer blade.

Regarding claim 18, Sankaran as modified above teaches everything noted above including that the sheet 30 moves at a first speed and is broken by a stress applied to the sheet 30 by the combination of the movement of the transfer blade 28 from the retracted position to the extended position and the rotation of the nip rolls at a second speed greater than the first speed as taught by Lotton. The combination of the extension of the transfer blade 28 and the nip rolls with the speed greater than the sheet material can break the sheet of material 30 either at its point of contact with the transfer blade 28 or close to its point of contact with the nip rolls 80, 81, as taught by Campbell.

6. Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran in view of Campbell, as applied to claim 14, and in further view of Dambroth (3,817,467). Regarding claim 19, Sankaran as modified by Campbell teaches everything noted above except that the transfer blade has air jets. However, the use of air jets with the transfer blades are well known in the art such as taught by Dambroth. Dambroth teaches a transfer blade 11 which has a plurality of individual air nozzles 23. See Fig. 5 and col. 3, lines 4-29 in Dambroth. It would have been obvious to a person of ordinary skill in the art to provide of Sankaran's transfer blade apparatus with the air jet nozzles as taught by Dambroth in order to create tension on the sheet of material prior to the cutting operation by the transfer blade.

Regarding claim 21, Sankaran as modified by Campbell teaches everything noted above except that the sheet is a fibrous web. Dambroth teaches that web 11 is a textile

Art Unit: 3724

material. The textile material is considered to be a fibrous material. See col. 1, lines 9-13 in Dambroth. It would have been obvious to a person of ordinary skill in the art to cut with Sankaran's cutting apparatus the fibrous web as taught by Dambroth, since Sankaran's cutting machine is also capable of cutting fibrous web.

Response to Amendment

7. Applicant's arguments filed on 03/10//05 have been fully considered but they are not persuasive.

Applicant's argument that Sankaran in view of Campbell does not teach that the sheet is diverted away from a processing apparatus is not persuasive. Roller assemblies 12 and 14, which are defined as a diverting means or device, divert sheet 30 away from mandrel roll 2 of the processing apparatus. Mandrel roll 2 is part of the processing apparatus that wounds the sheet around the mandrel. Sheet 30 is directed away from mandrel roll 2 of the processing apparatus by roller 12. Roller 12 keeps the sheet 30 away from mandrel 2 and helps sheet 2 to be wound around mandrel 32. It should be noted that roller 12 functions the same as the nip rollers of the instant invention by keeping initially keeping away the sheet from the processing apparatus. Transfer knife 28 directs the sheet, which is diverted away by roller 12, toward mandrel 2. Sheet 30 is not directed toward the processing apparatus before the transfer blade directs the sheet toward the processing apparatus. The sheet initially is kept away from the processing apparatus by rollers 12 and 16, before the transfer knife directs the sheet toward the processing apparatus. Therefore, rollers 12 and 14 divert the sheet away from the processing apparatus.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

Art Unit: 3724

about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

GA/ga

May 27, 2005



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